

## **REMARKS**

Applicant thanks the Examiner for the Office Action dated December 27, 2004 and mailed December 29, 2004. In that Office Action, the Examiner withdrew the finality of the previous Office Action. Applicant thanks the Examiner for the withdrawal. The Examiner also rejected Claims 28-33 under 35 U.S.C. 102.

In the present Amendment, Applicant has amended the Specification, Figure 4A, and Claims 28 and 31. Applicant respectfully submits that Claims 28-33 are allowable. Applicant has made additional amendments to Claims 28-33 to improve consistency in the language between the claims and not for reasons relating to patentability.

### **In the Drawings:**

In the Office Action mailed December 29, 2004, the Examiner indicated that the drawings did not comply with 37 CFR 1.84(p)(4) because reference character 81 has been used to designate both a plate and a flange.

Applicant has amended the specification. As amended, the plate is now designated by character 81, and the flange is represented by 810. Applicant has also amended Figure 4A to reflect this change. Applicant is submitting a Replacement Sheet for the Figure 4A. Should the Examiner require any additional corrections, Applicant respectfully requests that the Examiner indicate so in the next Office Action.

**In the Claims:**

**35 U.S.C. § 102**

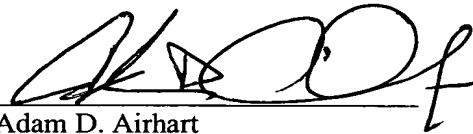
In the Office Action mailed December 29, 2004, the Examiner maintained the rejection of Claims 28-33 as being anticipated by Muderlak et al. (WO 97/13086). The Examiner stated that Muderlak et al. discloses a drive mechanism for a flush lever of a sanitary fixture comprising an electromechanical actuator (60) mounted on a moveable plate (62) within an enclosure (52), operably engaging the flush lever (30); first (74) and second (80) bracket halves projecting from the enclosure, substantially enclosing and rigidly engaging a bushing (44) and a hexagonal nut (46) securing the flush lever to the sanitary fixture; fasteners (84) for securing the first and second bracket halves to the enclosure; and a power source (104) for the electromechanical actuator; wherein opposing faces of the first and second bracket halves comprise a complementary topography to the bushing and nut. The Examiner further indicated that the claims of the present application did not require that a motor be mounted on a movable plate.

In the present paper, Applicant has amended Claims 28-33. More specifically, Applicant has amended Claims 28 and 31 to claim both an actuator and a motor mounted on a movable plate. Applicant respectfully submits that Muderlak et al. does not anticipate amended Claims 28 and 31. Muderlak et al. fails to disclose a movable plate upon which a motor and actuator are mounted. As a result, Applicant respectfully submits that Claims 28 and 31 are allowable over Muderlak et al. Furthermore, Claims 29-30 and 32-33 are dependent on Claims 29 and 31 respectively. As a result of their dependency on allowable claims, Applicant submits that claims 29-30 and 32-33 are allowable. Applicant respectfully requests that the Examiner withdraw the rejections of Claims 28-33.

## SUMMARY

Applicant has amended the Specification and Figure 4A, as well as Claims 28-33. Applicant submits that Claims 28-33 are allowable. Applicant respectfully requests that the Examiner withdraw the rejections, and grant allowance of this application. The Examiner is invited to contact the undersigned attorney for the Applicant via telephone if such communication would expedite this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Adam D. Airhart', written over a horizontal line.

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